

5/25/71 Ramsey Clark Questions FBI

By Betty Medsger

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HARRISBURG, Pa., May

24—Ramsey Clark told a federal judge today that false reports by FBI agents on their electronic surveillance activities caused the Justice Department "deep embarrassment" many times while he was attorney general.

"Often we would go into court and say their had been no electronic surveillance, and then we would find we had been wrong," said Clark.

He was asking for exposure to the defense of all electronic surveillance by the government in the case of eight persons indicted here for allegedly conspiring to kidnap presidential adviser Henry Kissinger.

Attorney General John Mitchell, in an affidavit filed here, has admitted that the conversations of Sister Elizabeth McAlister, one of the defendants, were "probably" monitored by the government.

That phone tap, the affidavit said, was the result of a national security authorization signed by President Nixon at the request of FBI Director J. Edgar Hoover.

Daniel McAuliffe, one of the prosecuting attorneys, said today a voice peneved to be that of Sister Elizabeth was heard on a phone that belonged to someone else. "The government has not revealed whose phone was being tapped in this instance and maintains that Sister Elizabeth was not the subject of the tap."

Policy Under Fire

The Nixon administration's wiretap policy has come under heavy fire recently, with four district judges ruling that there is no national security exception to the Constitution's demand that wiretaps be authorized by court order. The Justice Department has appealed the rulings.

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Clark's criticism on the policy came in his first appearance in court here since he became a defense attorney for Sister Elizabeth, the Rev.

years," said Clark. "Often you could not find out what was going on . . . frequently the agents lost the facts."

Impossible to Check

Prosecuting attorney McAuliffe charged, however, that things had changed since Clark was in the department during the Johnson administration. He said the electronic surveillance operations are much more efficiently maintained. But he later said it would be impossible to check all the suspected surveillance locations cited by the defendants in a motion.

"It was never conceivable to me while I was in the Justice Department," said Clark, "that national security taps could ever be the basis for prosecution . . ."

"The surveillance of American citizens is an utterly lawless philosophy. The Constitution applies to the President of the United States just as it does to the rest of us."

In addition to Sister Elizabeth, at least (two) other defendants say they have reason to believe they are under electronic surveillance.

Chief prosecuting attorney William S. Lynch, in response to a motion that the indictment should be dropped because of pretrial publicity generated by FBI Director Hoover, charged that the "bulk" of publicity was initiated by the defendants. Publicity generated by the government, he said, "is as a drop of gentle rain . . ."

He was critical of Mary Cain Scoblick, one of the defendants, for listing in a motion the names of several reporters on whose phones she said she expected privacy from government surveillance. Lynch named five of the reporters, including two from The Washington Post.

Earlier today, in argument

on a defense request for a bill of particulars—details of the government's case—Lynch said he thought the defendants were worse than those who participate in organized crime.

"These people decide for

on Wiretaps

themselves what is or is not violent," he said, arguing against further disclosures of the government's evidence.

"I ask which is more dangerous, the organized criminals who perpetrate their crimes of greed or these people who are charged here, who reject society's definition of the law and of the criminal. The organized criminal has a great deal more self-restraint. Those charged here would overthrow the structures of the society in which we live."

Philip Berrigan and six others. They are also charged with conspiracy to blow up tunnels under federal buildings in Washington and with numerous raids on Selective Service offices.

The former attorney general, in argument before U.S. District Judge R. Dixon Herman, said that the government's response to the defense motion for disclosure of all evidence by eavesdropping—that there was no evidence of surveillance except overhearing Sister Elizabeth—"is equivocal and amounts to a refusal to search their records."

"I served in the Department of Justice for a good many



Associated Press

Four defense attorneys in Harrisburg 8 case pause outside federal building. From left Paul O'Dwyer and

Leonard Boudine, both of New York, Addison Bowman, Baltimore, and former Attorney General Ramsey Clark.